

JAN 10 2018

U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

)

Plaintiff,

)

v.

)

DALE W. JOHANSEN,

)

Defendant.

)

4:18CR016 AGF/DDN

INDICTMENT
(MAIL FRAUD)

COUNT ONE

The Grand Jury charges that:

1. At some time unknown to the Grand Jury but by at least September 2015 and continuing until at least March 10, 2016, defendant DALE W. JOHANSEN (“JOHANSEN” or “defendant”) devised a scheme and artifice to defraud and to obtain money from residents of Rogue Creek by means of false and fraudulent promises, pretenses and representations.

2. At all times relative to this Indictment, Rogue Creek was a vacation community containing three lakes located in Potosi, Missouri and composed of approximately 90 active connections to the drinking water and sewer systems. Drinking water to this community was supplied by well water obtained through an on-site well. In 1994, Rouge Creek Utilities, Inc. was established to provide all sewer and water services and management to Rogue Creek.

3. JOHANSEN was employed by the Missouri Public Service Commission from approximately 1979 to 2011, (except from January 1992-May 1995) for a total of approximately 28 years, including approximately 12 years as the Superintendent of the Water and Sewer Department. The Missouri Public Service Commission’s Water and Sewer Department was the

Missouri state agency responsible for overseeing private utilities such as Rogue Creek Utilities, Inc.

4. On or about November 1, 2011, JOHANSEN established Johansen Consulting Services, later Johansen Consulting Services LLC., located in Jefferson City, Missouri. JOHANSEN, through Johansen Consulting Services, was appointed as the receiver for Rogue Creek Utilities, Inc. and became responsible for overseeing its drinking water and wastewater utilities on June 11, 2012.

5. In or around 1994, the Missouri Department of Natural Resources (“MDNR”) received results concerning levels of lead in the well water at Rogue Creek. As a result, the MDNR mandated that Rogue Creek Utilities, Inc. treat the well water for lead removal. A treatment system was installed and later replaced by a lead reduction system (hereinafter “water softener system”) which had been approved by the MDNR on or about January 8, 2003.

6. At all times relative to this Indictment, as part of JOHANSEN’s duties as receiver, JOHANSEN was required to collect samples and provide proper operation at Rogue Creek, including the oversight and maintenance of the water softener system.

7. In total, from March 2013 to March 2016, JOHANSEN was issued approximately fifty Notices of Violation, Public Notice Violations, Letters of Warning or letters of Non-Compliance from the MDNR relating to concerns about how JOHANSEN was overseeing the drinking water and sewer systems at Rogue Creek.

8. In or about March of 2016, the MDNR attempted to schedule a routine inspection of Rogue Creek’s drinking water system. On or about March 9, 2016, the MDNR learned that the water softener system at Rogue Creek was not operational. During the timeframe that the water

softener system was off, the residents of Rogue Creek received well water that was not treated for lead removal.

9. On or about March 10, 2016, the Missouri Rural Water Association, at the request of the MDNR, traveled to Rogue Creek to perform maintenance on the water softener system. On this same day, the water softener system was brought back on-line so that the water was again being treated to remove lead.

10. On or about March 11, 2016, the MDNR performed testing on the drinking water at Rogue Creek. Results of this testing showed that three of five samples tested high for lead. The MDNR issued a DO NOT DRINK ORDER for the community of Rogue Creek on or about March 11, 2016 recommending that residents drink bottled water. This ORDER was not lifted until on or about May 2, 2017.

11. At all times relative to this indictment, JOHANSEN, acting through Rogue Creek Utilities, Inc., issued invoices to customers for water services. In issuing the water bill, JOHANSEN falsely represented to the residents of Rogue Creek that their well water was clean, disinfected, and safe for human consumption. Additionally, JOHANSEN falsely represented to the residents of Rogue Creek that their well water met the quality requirements set by the MDNR and the United States Environmental Protection Agency.

12. It was part of the scheme to defraud, that between at least September 2015 and at least March 10, 2016, JOHANSEN, acting through Rogue Creek Utilities, Inc., issued residents of Rogue Creek monthly invoices for water services, including the removal of lead in their well water, with knowledge that the well water was not being treated for lead removal.

13. On or about September 7, 2015, within the Eastern District of Missouri, for the purpose of executing the foregoing scheme and artifice to defraud and to obtain money or property and attempting to do so,

DALE W. JOHANSEN,

the defendant herein, did knowingly cause to be sent, from Washington County, Missouri, by means of the United States Postal Service, an envelope containing payment check no. 1878 drawn on N.W.'s personal account in the amount of \$75.97 payable to Rogue Creek Utilities, Inc., P.O. Box 105950, Jefferson City, Missouri 65110, as payment for services that the defendant knew had not been performed.

In violation of Title 18, United States Code Section 1341.

COUNT TWO

The Grand Jury further charges that:

1. The allegations contained in Count I are hereby realleged and incorporated by reference.
2. On or about March 3, 2016, within the Eastern District of Missouri, for the purpose of executing the foregoing scheme and artifice to defraud and to obtain money or property and attempting to do so,

DALE W. JOHANSEN,

the defendant herein, did knowingly cause to be sent, from Washington County, Missouri, by means of the United States Postal Service, an envelope containing payment check no. 1017 drawn on N.W.'s personal account in the amount of \$67.22 payable to Rogue Creek Utilities,

Inc., P.O. Box 105950, Jefferson City, Missouri 65110, as payment for services that the defendant knew had not been performed

In violation of Title 18, United States Code Section 1341.

COUNT THREE

The Grand Jury further charges that:

1. The allegations contained in Count I are hereby realleged and incorporated by reference.
2. On or about September 16, 2015, within the Eastern District of Missouri, for the purpose of executing the foregoing scheme and artifice to defraud and to obtain money or property and attempting to do so,

DALE W. JOHANSEN,

the defendant herein, did knowingly cause to be sent, from Washington County, Missouri, by means of the United States Postal Service, an envelope containing payment check no. 154 drawn on R.C.'s personal account in the amount of \$24.81 payable to Rogue Creek Utilities, Inc., P.O. Box 105950, Jefferson City, Missouri 65110, as payment for services that the defendant knew had not been performed.

In violation of Title 18, United States Code Section 1341.

COUNT FOUR

The Grand Jury further charges that:

1. The allegations contained in Count I are hereby realleged and incorporated by reference.

2. On or about November 24, 2015, within the Eastern District of Missouri, for the purpose of executing the foregoing scheme and artifice to defraud and to obtain money or property and attempting to do so,

DALE W. JOHANSEN,

the defendant herein, did knowingly cause to be sent, from Washington County, Missouri, by means of the United States Postal Service, an envelope containing payment check no. 208 drawn on R.C.'s personal account in the amount of \$25.06 payable to Rogue Creek Utilities, Inc., P.O. Box 105950, Jefferson City, Missouri 65110, as payment for services that the defendant knew had not been performed.

In violation of Title 18, United States Code Section 1341.

A TRUE BILL.

FOREPERSON

JEFFREY B. JENSEN
United States Attorney

DIANNA R. COLLINS #59641
Assistant United States Attorney